

REMARKS

Claims 1-3, 5-10, 17-20, 23, 24, 27, and 28 were pending in the present application. Claim 19 has been canceled without prejudice. Claims 5, 23, and 27 have been amended for clarity. Figures 1a and 1b have been amended to correct errors resulting in improper identification of the sequences designated "Sfg I" and "Not I." Support for this amendment to the drawings can be found, *inter alia*, at page 7, lines 25-31 of the specification. Applicant asserts that these amendments do not constitute new matter, and thus, their entry is requested. Upon entry of the present amendment, therefore, claims 1-3, 5-10, 17-18, 20, 23, 24, 27, and 28 will be pending and under examination.

Examiner's Withdrawal of Previous Rejections

In the May 5, 2003 Office Action, the Examiner stated that the previous rejection under 35 U.S.C. §112, second paragraph and the previous rejection under 35 U.S.C. §112, first paragraph (relating to the recitation of glutamic acid decarboxylase and islet cell antigen) have been withdrawn.

Applicant acknowledges and appreciates the withdrawal of these rejections.

Drawing Corrections

The Examiner reiterated that amending "Sfg I" to "Sgf I" in Figure 1 would not be allowed.

In response, Applicant appreciates the Examiner's efforts in clarifying the issue with respect to the drawings. Applicant notes that in the proposed drawing changes submitted May 22, 1998, Applicant did not in fact intend to make the change to which the Examiner refers. Applicant's intention was merely to correct the misplaced designations in accordance with the specification. (See page 7, lines 25-31). In the submitted drawings, however, "SfgI" was inadvertently written as "SgfI." The presently submitted drawing changes correctly reflect the intent of the Applicant. Applicant regrets any prior confusion caused by this error. The presently proposed changes do not introduce any new matter, and thus, their entry is requested.

Rejections under 35 U.S.C. § 112, first paragraph

The Examiner rejected claims 5, 6, 23, 24, 27, and 28 under 35 U.S.C. § 112, first paragraph, for allegedly containing subject matter that was not described in the specification in such a way as to reasonably convey to one of skill in the art that the inventor had possession of the claimed invention. The Examiner stated that the rejection was made for the reasons set forth in the previous Action, namely that the term “affinity binding pair” as it is recited in the claims is not sufficiently described. The Examiner had asserted that the disclosure of only one such “affinity binding pair” (biotin-streptavidin) in the claims is insufficient to describe the entire claimed genus. In response to Applicant’s previous arguments and citation of references showing that one of skill would indeed understand the meaning of the term, the Examiner stated that “post-filing examples” cannot provide an adequate definition for a term found in the specification.

In response, Applicant respectfully traverses the rejection. The references cited by the Applicant in the Amendment filed March 3, 2003 plainly demonstrate that one of skill in the art would have known and understood the meaning of the term “affinity binding pair” as it is used in the claims and the specification, well before the filing date of the present application. As noted, the references, which were published in 1988, provide various examples of such affinity binding pairs, including glutathione S-transferase/glutathione and maltose binding protein/amylase. Applicant disagrees with the Examiner’s characterization of these examples as “post-filing,” given their public knowledge a decade before the Applicant’s filing date.

Nevertheless, without conceding the correctness of the Examiner’s position, but to expedite prosecution of the subject application, Applicant has amended claims 5, 23, and 27 to help clarify the meaning of the term “affinity binding pair.” Applicant asserts that these amendments and the demonstration of the knowledge in the art of what constitutes an affinity binding pair, obviate the Examiner’s rejection. Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claims 5, 6, 23, 24, 27, and 28 under 35 U.S.C. § 112, first paragraph.


The Examiner also maintained the rejection of claim 19 for the reasons set forth in the previous Office Action.

In response, without conceding the correctness of the Examiner's position, but to expedite prosecution of the subject application, Applicant has canceled claim 19, without prejudice to Applicant's right to pursue the subject matter therein in a further divisional or continuation application.

Allowance of Claims

Applicant acknowledges and appreciates Examiner's allowance of claims 1-3, 7-10, 17, 18, and 20.

In view of the above amendments and remarks, it is believed that the claims satisfy the requirements of the patent statutes and fully address the Examiner's concerns as set forth in the May 5, 2003 Office Action. Accordingly, reconsideration of the instant application and early notice of allowance are requested. The Examiner is invited to telephone the undersigned if it is deemed to expedite allowance of the application.

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Ari HINKKANEN
Ser. No. 09/015,399; Filed January 29, 1998
A NEW FUSION PROTEIN AND ITS USE IN AN IMMUNOASSAY Etc.
Docket No. 2328-111A

Flag-peptide	GAD65	Not I	IA2	Not I	PPINS	poly-his
DYKDDDDK	-----	KKKRPRKKK	-----	KKKRPRKKK	-----	CNGSHHHHHH

FIG. 1a

Flag-peptide	GAD65	Sfg I	IA2	Sfg I	PPINS	poly-his
DYKDDDDK	-----	KKKRPRKKK	-----	KKKRPRKKK	-----	CNGSHHHHHH

FIG. 1b

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Flag-peptide	GAD65	Not I	Not I	poly-his
DYKDDDDK	-----	Sfg I	Sfg I	-----
		KKKRRPRKKK	KKKRRPRKKK	CNGSHHHHHH

FIG. 1a

Flag-peptide	GAD65	Sfg I	Not I	poly-his
DYKDDDDK	-----	Not I	Not I	-----
		KKKRRSRKKK	KKKRRSRKKK	CNGSHHHHHH

FIG. 1b

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